IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

WP(C).No. 1296 of 2007(D)

PETITIONER:

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1. K.P.HAMSA, S/O.LATE SAIDALI HAJI,
   KALLIPALATHINGAL HOUSE, PATTIKKAD AMSOM,
   PERINTHALMANNA TALUK, MALAPPURAM DISTRICT.

2. C.MUHAMMED, S/O.CHAKKARATHUDIYIL
   KUNJAPPA HAJI, THENKARA, MANNARKKAD,
   PALAKKAD DISTRICT.

3. K.ABDU, S/O.KUNJAYAMMU,
   KOLASSERY HOUSE, THENKARA, MANNARKKAD,
   PALAKKAD DISTRICT.

BY ADV. SRI.T.KRISHNAN UNNI

RESPONDENTS:

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1. ASSISTANT COMMISSIONER OF SALES TAX
   (ASSESSMENT), PALAKKAD.

2. DISTRICT COLLECTOR, PALAKKAD.

3. TAHSILDAR, MANNARKKAD,
   PALAKKAD DISTRICT.

4. M/S.MARVAL INDUSTRIES,
   THROUGH IS MANAGING PARTNER,
   SHRI.SUBRAMANIAN, VANNAMADA, CHITTOOR.

5. K.ABDUL SAMAD, KAPPOOR HOUSE,
   P.O.THENKARA, MANNARKKAD, PALAKKAD DISTRICT.

6. K.P.MUHAMMEDALI, KULUKKAMPARA HOUSE,
   P.O.THENKKARA, MANNARKKAD, PALAKKAD DISTRICT.

R1 TO 3 BY G.P. SRI.MOHAMMED RAFFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE JUDGMENT IN W.P.(C) 23617/02 DT.30.5.2006.

P2: TRUE COPY OF THE PROCEEDINGS OF TAHSILDAR, MANNARKKAD DT.19.9.2006.

P3: TRUE COPY OF THE NOTICE ISSUED TO R5 FROM THE OFFICE OF R3 DT.13.12.2006.

P4: TRUE COPY OF NOTICE ISSUED TO R6 FROM THE OFFICE OF R3 DT.13.12.2006.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.1296 of 2007

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Dated this the 29th day of May, 2007.

JUDGMENT

The petitioner is challenging Ext.P2 order issued by the Tahsildar declaring sale deed executed by defaulters in favour of the petitioners subject to sales tax liability by virtue of Section 26A and 26B of the KGST Act. This is the second round of litigation and in the first round, this court issued specific direction to the Tahsildar to consider petitioner's claim with reference to statutory provisions vide Ext.P1 judgment. It is seen that the Tahsildar has conducted enquiry strictly in accordance with the judgment and found that sale deeds were executed in 1994 after inspection was carried out by the Sales Tax Intelligence Department in the defaulters' premises on various dates in 1993 and therefore, sale deeds are executed during pendency of proceedings pursuant to inspection. Section 26A makes it clear that any transfer of property effected by dealers during pendency of any proceedings will be subject to liability under the KGST Act. In the circumstances, no interference is called for with Ext.P2 order and therefore, the W.P. is dismissed as devoid of any merit.

C.N.RAMACHANDRAN NAIR
Judge

pms